

ASKS BRITISH LINES' SUIT BE DISMISSED

Hayward Says U. S. District Court Has No Jurisdiction in Matter.

IS GOVERNMENT CASE

Attorney Sets Forth Six Points in Answer to Plea for Injunction.

COMPANIES WILL APPEAL

To Carry Action to Supreme Court if Permanent Order Is Refused.

Declaring that the United States District Court has no jurisdiction in the matter; that the suit is against the Government without the consent of the Government to be sued, and that it does not disclose any adequate cause for action in equity, William Hayward, United States Attorney, last night filed an answer to the bills in equity of the British owned Cunard-Anchor steamship lines, seeking an injunction restraining Secretary of the Treasury Mellon and his subordinates from enforcing the prohibition ban on vessels of the complainants entering American ports.

Dismissal of the Cunard-Anchor lines' complaint is asked by Mr. Hayward in his answer on the following grounds:

"1. The suit is in effect one against the United States and does not aver or show that the United States has consented to be sued.

"2. The court has no jurisdiction to grant the relief prayed for or any part thereof.

"3. The bill does not present a cause of action in equity under the Constitution of the United States.

"4. The bill does not disclose a cause of action equitable in its nature, civil in its character and arising under the Constitution of the United States.

"5. The facts alleged in the bill are insufficient to constitute a valid cause of action in equity.

"6. It appears from the bill that the complainants have a plain, adequate and complete remedy at law.

Suggests Higher Wages.

"In answer to allegations set out in the complaint," continues the document in part, "the defendants allege on information and belief that any difficulty which complainants might experience in obtaining adequate crews from among the nationals of countries in which the custom of the use of alcoholic liquors for beverage purposes is widespread would be readily obviated by the payment of higher wages to the crews.

"Defendants deny the allegation that the ruling by the Attorney-General and such regulations would violate complainant's rights under existing treaties between the United States, Great Britain and otherwise.

"Defendants deny the allegation that if the interpretation placed upon the national prohibition act by the opinion of the Attorney-General is correct it renders said act unconstitutional and void for the reason that the national prohibition act was adopted by the Congress in reliance upon, and in the exercise of, the powers given the Congress by the Eighteenth Amendment to the Constitution of the United States.

A Cloak to Hide Smuggling.

"Defendants are further informed and believe and therefore allege that for two years past a large and profitable business had been carried on by divers persons with the object and result of importing liquor into this country contrary

to law, that the vessels used by such persons are vessels under foreign registry and such vessels sail from foreign ports with clearance papers showing that they are bound for other foreign ports.

"Up to the present the vigilance of the customs officials in seizing such vessels when they came within the territorial limits of the United States has somewhat mitigated the evils of the traffic, but if, as complainants contend, it is only necessary to put liquor under lock and key to make such transportation legal and foreign vessels can sail our territorial waters at will with cargoes of liquor, the enforcement of the prohibition against the importation of liquors, already difficult, will become practically impossible.

"The rulings of the Secretary of the Treasury referred to in the bill of the complainant have already been used as a cloak to hide smuggling operations and if the doctrine underlying such rulings is declared to be the law, as claimed by complainants, defendants verily believe that its use as a cloak for such operations will greatly increase.

"Defendants are informed and verily believe that the complainants make large profits from the sale of intoxicating liquors on the high seas, such profits amounting to many thousands of dollars per annum, and further allege that loss of such profits is the only definitely ascertainable loss which the complainant will suffer if the national prohibition act as interpreted by the ruling of the Attorney-General is given full force and effect. And defendants verily believe that if vessels of foreign registry are by the injunction of this court facilitated in the sale of liquor within the territorial waters of the United States the result and damage to the American merchant marine will be great and irreparable."

To Hear Arguments To-day.

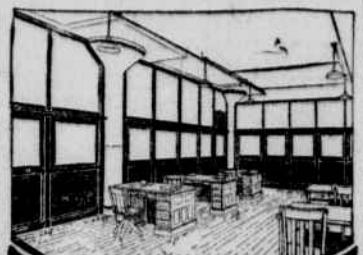
Judge Learned Hand in United States District Court today will hear arguments by counsel for the Cunard-Anchor, French, White Star, Holland-America and the International Navigation Company lines in their fight to obtain a permanent injunction restraining Federal officers from putting into effect the Daugherty liquor ruling. He also will hear arguments for similar injunctions by counsel for the American, Red Star and United American lines. Petitions seeking permanent injunctions against enforcement of the Daugherty ruling were filed yesterday by the British owned International Navigation Company and the Holland-America line.

Counsel for all of the complainant companies admit that they will appeal their cases to the United States Supreme Court if the permanent injunction is not granted by Judge Hand.

REBATTET WINS LAMBLIN CUP.

PARIS, Oct. 16 (Associated Press).—Lieut. Rebattet set a new record to-day for the triangular Paris-Brussels-London airplane flight, making the three sides of the triangle in 5 hours 28 minutes and 11.5 seconds.

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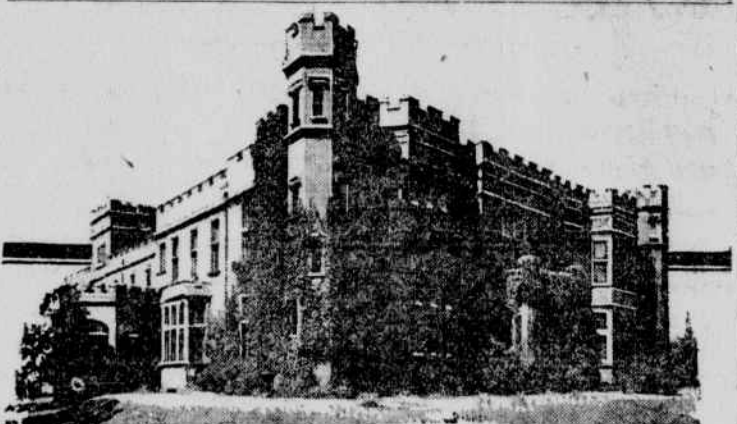
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